

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:09CR99
	)	
v.	)	
	)	
LEOPOLDO SANCHEZ,	)	ORDER
	)	
Defendant.	)	
_____	)	

This matter is before the Court on the government's objection (Filing No. [31](#)) to the report and recommendation of the magistrate judge (Filing No. [28](#)), wherein the magistrate judge recommended that defendant's motion to suppress (Filing No. [15](#)) be granted. Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has reviewed de novo those portions of the report and recommendation to which plaintiff objects.

The Court has reviewed the transcript of the suppression hearing (Filing No. [27](#)) and exhibits received during the hearing, defendant's brief in support of motion to suppress (Filing No. [16](#)), the government's response regarding motion to suppress (Filing No. [18](#)), and the government's objection to the magistrate judge's report and recommendation (Filing No. [31](#)). The success of defendant's motion depends primarily on the credibility of the witnesses. The magistrate judge determined that the defendant's witness was more credible on certain issues than the government's witnesses. After a review of the record

and appropriate consideration for the magistrate judge's opportunity to view the witnesses, the Court finds that the magistrate judge's credibility determination is correct and should be adopted. The Court similarly agrees with the magistrate judge's findings and conclusions in all other respects. The government's objections will be overruled, and the report and recommendation will be approved and adopted in its entirety. Accordingly,

IT IS ORDERED:

1) Plaintiff's objection to the magistrate judge's report and recommendation (Filing No. [31](#)) is overruled.

2) The magistrate judge's report and recommendation (Filing No. [28](#)) is approved and adopted.

3) Defendant's motion to suppress (Filing No. [15](#)) is granted.

4) Trial of this matter (including co-defendant Christopher Clay) is scheduled for:

**Tuesday, September 8, 2009, at 9 a.m.**

in Courtroom No. 5, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska. This will allow the parties to prepare for trial, and the ends of justice will be served by continuing this case and outweigh the interests of the public and the defendant in a speedy trial. The additional time between August 13, 2009, and September 8, 2009, shall be deemed

excludable time in any computation of time under the requirement of the Speedy Trial Act. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 13th day of August, 2009.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court